

News Release

Senator Pete V. Domenici

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DOMENICI: MIDDLE RIO GRANDE WATER OPINION THREATENS TO DISRUPT N.M. WATER LAW, COOPERATION ON ENDANGERED SPECIES

WASHINGTON -- U.S. Senator Pete Domenici today criticized the Interior Department Solicitor's decision to "federalize" the Middle Rio Grand Conservancy District and usurp historic New Mexico water rights.

Domenici today criticized the Interior Department's latest actions on New Mexico water rights during a Senate Energy and Natural Resources Subcommittee on Water and Power hearing Tuesday. Bureau of Reclamation (BOR) Commissioner Eluid Martinez testified before the subcommittee, where Domenici said the Department of Interior has overreached its authority to enforce the Endangered Species Act on the Rio Grande.

"I have been working with all parties to try to find a balanced resolution, and I've provided more funding for federal water acquisition and habitat protection. This opinion thoroughly disrupts cooperative efforts to find a solution for the needs of the silvery minnow and the cities, farmers and others who legally own the water rights on the Rio Grande," he said.

Last week, the Albuquerque BOR Area Manager sent a letter to MRGCD stating that the district operates as an agent of the United States, and should operate its "transferred works" to allow 300 cubic feet per second (cfs) of water to bypass San Acacia Dam for the silvery minnow.

Despite the fact that an October 1999 BOR Biological Assessment stated that the BOR did not have a controlling property interest in MRGCD facilities, Interior Department Solicitor John Leshy issued a brief opinion on June 19 stating that the BOR has title to MRGCD facilities.

"The Rio Grande has historically run dry in some seasons. Whether or not the Middle Rio Grande Conservancy District and other water rights owners--like the cities of Albuquerque or Santa Fe--have to maintain a year round wet river on the middle Rio Grande hasn't been determined. It's an issue pending before the federal district court in New Mexico. I believe there is a real chance the court will find on the facts that such is not the case," Domenici said.

"Solicitor Leshy's cursory opinion is an effort to make that prospect irrelevant. But the United States government should not be overruling long-standing state water laws as this opinion does. I will do everything in my power to see that this solicitor's opinion is not

the law of the land,” he said.

Domenici asserted that the Interior Department also overacted by trying to “federalize” the MRGCD “by making the district an agent of the federal government.” The MRGCD was created by the New Mexico legislature in 1923 under the Conservancy Act of New Mexico.

“The district owes the federal government no money. It paid off its last rehabilitation and construction loan last year,” Domenici said. “Solicitors at the Interior Department or other federal lawyers should not be nationalizing assets. It certainly isn’t the American way.”

Martínez testified that the BOR is abiding by the Leshy opinion, adding that the bureau had “exhausted what’s on the market” in terms of buying or leasing water to sustain the minnow.

The BOR has also asked the Fort Sumner Irrigation District to provide water for endangered bluntnose shiner on the Pecos within six months, or the federal government will take over the district’s facilities.